



Maryland Department of the Environment
Tier II Review Exemption Determination



Purpose

There are numerous activities that may require permits or authorizations from MDE, but do not cause impacts to Tier II waters, or Tier II resources that support high water quality. To make this demonstration, an applicant must provide adequate rationale and documentation to demonstrate the following conditions:

- (1) the project is exempt from the no-discharge alternatives analysis; and
- (2) the project consists of minor, unavoidable impacts to on-site streams, including stream buffers averaging 100'; and
- (3) the project will not cause net forest loss in the affected Tier II watershed, or loss will be less than 1 acre; and
- (4) all impervious surfaces associated with the project are treated with environmental site design practices, with existing structures with remaining capacity.

This form is for the evaluation of land disturbing activities such as those requiring a nontidal wetlands or waterways construction permit, or a general stormwater construction permit (NOI). Responses provided must apply to the whole and complete project within the affected Tier II watershed. For example, the first part of the project may require authorization for sewer infrastructure, however to meet the Tier II Review exemption determination, the responses below must also take into account any projects facilitated by the infrastructure, i.e. the remaining phases in the overall project.

The Department will use this information to determine whether or not the proposed activity or project requires Tier II review. To make a final decision, MDE may require additional information.

In a short PDF narrative 'Preliminary Tier II report', please provide the information requested below. Add supporting documents as attachments.

1. A basic overview of the whole and complete project, including tax map and parcel numbers, the project site address, or if unavailable at this time, an address for a nearby existing developed location with directions to the site, or directions from the closest intersection. Provide the general project name, and footprint in acres. Explain the project's purpose. Use the following website to identify the

Tier II watershed in which the project is located. Using the map, also determine if there is assimilative capacity (yes if green, no if orange). Tier II map:

<https://mdewin64.mde.state.md.us/WSA/TierIIWQ/index.html>

2. To exempt the project from the 'no-discharge alternatives analysis' you must demonstrate that there is no alternative location available. To qualify, one or more of the following conditions must apply:
 - The project is linked to a unique or special State, County, or Municipality development incentive. For documentation, provide a map of the project's location relative to the Priority Funding Area, etc.
 - The project has location specific limitations as it is part of an on-going, phased development, existing structure, or connects to existing infrastructure. Documentation is whatever plans you are using to guide the work.
 - The project has little to no resource impacts. This project will not cause significant stream impacts, stream buffer impacts, forest cover loss, or addition of impervious surfaces. To qualify, all impacts must be under 1 acre, or the project purpose is repair, in-kind replacement, restoration, stabilization, or rehabilitation. Documentation is whatever plans you are using to guide the work.
 - The project is a military project (or similar) with site restrictions due to national security, etc.
 - The project is a 'grandfathered' development that meets the specification within Chapter 1.2, in the *Maryland Model Stormwater Management Ordinance, June 2007 & April 2010*. Documentation should consist of administrative waivers, extension approval, etc.
3. If true, state that the project will result in no avoidable impacts to Tier II stream buffers, or within 100 feet of any on-site regulated stream resources. Documentation is whatever plans you are using to guide the work, permit application, etc.
4. If true, state that the project will result in minimal net forest loss; i.e. loss that is less than one acre. If, and only if, this is true, you may also include the following statement. "Net forest loss associated with this project is considered de minimis, as it is less than 1 acre." Alternatively, if true, you may state that the project will result in no forest loss. Documentation is whatever plans you are using to guide the work, permit application, etc.
5. If true, state that the project will result in no net impervious cover increase, as all new surfaces are treated with environmental site design, other non-structural design practices, or existing stormwater management structures with remaining capacity. If there are supporting plans available, please provide them.
6. Explain all actions taken to minimize environmental impacts.

Please direct questions or comments concerning Maryland's Antidegradation Program to Angel Valdez at Angel.Valdez@maryland.gov or 410-537-3606.